MT LEGISLATIVE HISTORY

Chapter 374 1989

Bill H _____ (S) 242 Original bill & hist. ___C

H. Committee on Highways & Transportation		S. Committee on Highways & Transportation	
Hearing Date(s) Mar 08	✓C	Hearing Date(s) Feb 07	✓C
_____	___C	_____	___C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out Mar 09	✓C	Feb 07	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

REPRESENTATIVE O'KEEFE stated that he had talked with the Highway Patrol and they have a problem with the law. The problem revolves around, looking at Page 2, line 6-9, the Highway Department not having the money to erect designated turnouts. The Highway Patrol said that they issue a handful of citations a year on this law and most are warning citations.

SENATOR NOBLE asked about the size of the signs.

BEATE GALDA, Attorney for the Highway Department stated that the signs would be the same size as a speed limit sign. The reason why the areas chosen are those such as rest areas is because they will have 3 lines and would be hard to read at 55 mph.

Closing by Sponsor: REPRESENTATIVE O'KEEFE closed stating that this bill might ease the frustration of those who live here.

DISPOSITION OF HOUSE BILL 25

Discussion: SENATOR HARP will carry.

Amendments and Votes: None

Recommendation and Vote: SENATOR NOBLE MOVED that HOUSE BILL 25 BE CONCURRED IN.

MOTION FAILED ON A ROLL CALL VOTE of 5-3.

HEARING ON SENATE BILL 242

Presentation and Opening Statement by Sponsor: SENATOR HARP, District 4 stated that Senate Bill 242 is at the request of the Department of Highways. In 1987 a Surface Transportation Uniform Relocation Act that asked states to look at their existing legislation on what they do to people who are being relocated because of new roads or changes in highways. SEE EXHIBIT 2.

List of Testifying Proponents and What Group they Represent:

Beate Galda, Attorney for the Department of Highways

Testimony:

BEATE GALDA, Attorney for the Department of Highways stated that the Highway Department does support this bill. SEE EXHIBIT 3. She also distributed an amendment which was brought to her attention by the Right of Way Division of the Highway Department. SEE EXHIBIT 4.

List of Testifying Opponents and What Group They Represent:

None

Questions From Committee Members: None

Closing by Sponsor: SENATOR HARP closed the hearing on Senate Bill 242.

DISPOSITION OF SENATE BILL 242

Discussion: None

Amendments and Votes: SENATOR WILLIAMS MOVED the amendments to SENATE BILL 242.

MOTION PASS UNANIMOUSLY.

Recommendation and Vote: SENATOR NOBLE MOVED that SENATE BILL 242 DO PASS AS AMENDED.

MOTION PASSED UNANIMOUSLY.

SENATOR ABRAMS MOVED to adopt the STATEMENT OF INTENT.

MOTION PASSED UNANIMOUSLY.

DISPOSITION OF SENATE BILL 148

Discussion: The Committee discussed the fiscal note and the suggested amendment to clarify which Department. SEE EXHIBIT 5.

Amendments and Votes: SENATOR NOBLE MOVED the amendment for SENATE BILL 148.

MOTION PASSED UNANIMOUSLY.

ROLL CALL

HIGHWAY COMMITTEE

DATE February 7, 1989

51st
LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
CHAIRMAN TVEIT	✓		
VICE CHAIRMAN MEYER	✓		
SENATOR ABRAMS	✓		
SENATOR FARRELL	✓		
SENATOR WEEDING	✓		
SENATOR NOBLE	✓		
SENATOR STIMATZ	✓		
SENATOR HARP	✓		
SENATOR WILLIAMS	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

February 7, 1989

MR. PRESIDENT:

We, your committee on Highways and Transportation, having had under consideration SB 242 (first reading copy -- white), respectfully report that SB 242 be amended and as so amended do pass:

1. Page 10, line 17.
Strike: "entire property"
Insert: "uneconomic remnant"

AND AS AMENDED DO PASS

Signed: _____
Larry J. Tveit, Chairman

Statement of Intent adopted.

H.C.
2/15/89
1:20 p.m.

sr:hb242.207

SENATE HIGHWAYS
EXHIBIT NO. 2
DATE 2-7-89
BILL NO. SB 242

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

OFFICE OF
THE ADMINISTRATOR

December 16, 1988

IN REPLY REFER TO:
HRW-10

The Honorable Stan Stephens
Governor-elect of Montana
State Capitol
Helena, Montana 59620

Dear Governor-elect Stephens:

I am writing to you as the head of the agency that has been designated as the Federal Government's lead agency for implementing and administering the requirements of the amended Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. §§ 4601-4655 (Uniform Act).

On October 20, 1987, my predecessor, R. A. Barnhart wrote to you to enlist your support for the passage in your State of a comprehensive statute to enable all State, local, and private entities receiving Federal funds to comply with the Uniform Act, as amended. Specific requirements of the Uniform Act found in §§ 210 and 305 relate to assurances which must be provided by displacing or acquiring agencies indicating their ability to comply with certain provisions of the Uniform Act. These assurances must be in place as of April 2, ~~1989~~. If they are not, the Federal agency providing the financial assistance for any ongoing project must withhold funding for any acquisitions or displacement occurring on or after April 2, 1989, and further, shall not approve any new activity, project, or program which will result in acquisition or displacement.

While we believe that many States may have specific legislation already in place or general assent language that could provide adequate protection come April 2, in many States the situation is unclear and open to question. In any event, the adequacy of State legislative authority can only be determined by appropriate State officials. Therefore, I respectfully request that you review the adequacy of State legislation to assure that State legislation is, or will be, in place no later than April 2, 1989, to permit unimpeded activities of State or local agencies receiving Federal financial assistance which may be used to acquire real property or to displace residents or businesses. The State legislation may be program-specific, comprehensive, or general in nature. The important point is that all affected State agencies must be able to provide the necessary assurances of compliance so that Federal financial assistance may continue without any interruptions due to failure to comply with the Uniform Act.

I appreciate your assistance in this matter.

Sincerely yours,

Robert E. Farris
Federal Highway Administrator

SENATE HIGHWAYS
EXHIBIT NO. 3
DATE 2/7/89
BILL NO. HB 242

Relocation Assistance

Background:

In 1969, the Legislature enacted a bill for relocation of persons displaced by the highway projects (Part 3, Chapter 4, Title 60, MCA) and, in 1971, one for fair treatment of condemnees for persons displaced by federally assisted programs and for property acquisition. (Chapter 31, Title 70, MCA). These bills were enacted in response to federal legislation which created a federal relocation program to assist persons displaced by federally funded projects and which regulated the acquisition of real property.

In 1987 Congress comprehensively amended the Uniform Relocation Assistance and Real Property Acquisition Policies Act. As a result it is necessary for Montana to amend its statutes to be in compliance with the federal act in order to be eligible for federal funding of projects involving property acquisition or the displacement of persons. The federal act requires the state's certification that it will carry out relocation assistance and property acquisition on projects with federal funds in accordance with state laws which accomplish the purpose and effect of the federal act. Failure to comply may result in the withholding of approval of any federal financial assistance on a project involving property acquisition or relocation.

What the Proposed Bill Does:

This bill repeals the two existing relocation assistance acts under Montana law and replaces them with broad enabling legislation. The bill will authorize all state agencies or any other legal entity which has eminent domain authority and which receives federal funding for any program or project which displaces persons to comply with federal law to obtain relocation assistance. It also gives express rulemaking authority under the

act to enable agencies to adopt rules necessary to follow federal requirements. It provides an immediate effective date because the federal law requires state compliance by April 2, 1989.

The bill also adds a definition of the term "appraisal" and amends the property acquisition provision by adding the right of a condemnee to donate property or proceeds to an agency and by allowing the Waiver of the appraisal requirement where property has a low fair market value.

Department Position:

Most of the federally funded highway projects of the Department of Highways involve the acquisition of real property or the displacement of persons from their homes, farms, or businesses. The federal act provides a more uniform treatment of displaced persons. This bill will enable the Department to comply with the federal requirements in order to assure continued funding of federal-aid highway projects as well as federal payment of relocation expenses to displaced persons. The Department supports this bill.

BG:ml

Beata Galda
Tel: 6097

SENATE HIGHWAYS
EXHIBIT NO. 4
DATE 2-7-89
BILL NO. SB 242

AMENDMENT TO SENATE BILL NO. 242

Proposed by the Department of Highways

Page 10, line 17
Following: "to acquire the"
Strike: "entire property"
Insert: "uneconomic remnant"

COMMITTEE ON HIGHWAY AND TRANSPORTATION

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Bill Gosnell	Highways	HB61	X	
Mark O'Rufe	HD 45	HB23	X	
Bette Gibbs	Dept of Highways	SB242 HB25	X	—
John Wilson	Dept. Commerce	HB25	at request of Sponsor	

(Please leave prepared statement with Secretary)

"should" so you are not directing motorist to a place of service that might be open and might not.

Rep. Stang asked Ms. Galda if the dept. felt the federal regulation for guidelines were loose enough that the dept. can make the decisions without the federal government coming in and making them change the sign or take away the federal money? Ms. Galda replied that as long as the dept. uses the provisions that have "should" standards and change them on recent basis the federal government would not have any complaints.

Rep. Roth asked Mr. Unsworth how many people would be employed on the project through the dept., and if so has there been any preliminary work on the regulations? Mr. Unsworth replied that preliminary work has been done along with the bill two years ago since than there has been significant changes. The dept. through the traffic unit has been interested in following this program through the association of the highway officials. Mr. Unsworth stated a lot of the specific details have not been worked out at this time.

Rep. Bachini asked Mr. Unsworth about the effective date and if they would be able to take off with this immediately? Mr. Unsworth stated the fiscal note is written with the assumption that it would be ready in a year.

Closing by Sponsor: Rep. Bengtson closed stating this bill originated because of all the traveling her family does. Sen. Bengtson said this bill brings money into the State, the federal regulations have relaxed for flexibility for smaller businesses. Sen. Bengtson stated since this January of 1989 the federal regulations have changed from four logos to six logos and urged the Committee's support for the passage of SB 94.

HEARING ON SENATE BILL 242

Presentation and Opening Statement by Sponsor:

Senator Harp, Senate District 4 stated that SB 242 is a request from the Dept. of Highways to conform with the recent change of the Relocation Assistance Act of 1986. Recently the Dept. of Transportation has issued a warning to the dept. that unless the current law is changed to repeal some of the provisions on relocation assistance for real property and acquisition, Montana will lose federal funding.

Testifying Proponents and Who They Represent:

Beate Galda, Dept. of Highways

Proponent Testimony:

Galda distributed a handout from the Federal Highway

Administration of the Governor which states changes on relocation changes. See Exhibit 8. Ms. Galda stated there are two relocation bill acts presently in Montana: 1) Montana Highway projects which went into effect in 1969, and 2) since 1971 the fair treatment of another one for different federal agency projects. In 1987 Congress comprehensively amended the relocation assistance provisions by liberalizing them by the types of fees and people that are affected by the relocation. See Exhibit 9.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Stang asked Ms. Galda to explain the relocation process? Ms. Galda stated it is the purchasing of property which includes a house, e.g., if putting in an interchange, the owner is entitled to the fair market value of the property under Montana law and in addition if it is federally funded project the owner is also entitled to relocation assistance, e.g., moving expenses, rent while looking for a new home, or the difference if a rental for 3½ years, business expenses, advertising expenses for setting up in a new location, and kind of an expense that is caused by the federal program and having to spend money they wouldn't be spending otherwise.

Closing by Sponsor: Sen. Harp closed.

HEARING ON SENATE BILL 402

Presentation and Opening Statement by Sponsor:

Senator Harp, Senate District 4, opened stating this bill is an act to eliminate the PSC authority to order installation of signals at railroad crossings. Sen. Harp stated the bill also authorizes the Highway Dept. to prioritize the expenditures of funds on railroad crossings and provides for a public hearing. Sen. Harp stated he has been approached by MRL, Burlington Northern, PSC and Dept. of Highways and this would authorize the Highway Commission to set priorities and would repeal the authority of the PSC to order the installation of a signal. Sen. Harp stated this would give the Board of Commissioners in any county where a signal would be located the right to conduct a public hearing for input and safety concerns.

Testifying Proponents and Who They Represent:

Wayne Budt, Administrator of Transportation Division, PSC
Beate Galda, Dept. of Highways

Closing by Sponsor: Sen. Harp closed stating that the ongoing operation of signals will be met by the Dept. of Highways and felt the dept. is better able to set the priorities and regulate and enforce the regulations.

EXECUTIVE ACTION:

DISPOSITION OF SENATE BILL 242

Motion: Rep. Roth moved for SB 242 to BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: Rep. Zook called the question. The motion CARRIED unanimously to BE CONCURRED IN.

DISPOSITION OF SENATE BILL 402

Motion: Rep. Steppler moved for SB 402 to BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: Rep. Campbell called the question. The motion CARRIED unanimously to BE CONCURRED IN.

HEARING ON SENATE BILL 256

Presentation and Opening Statement by Sponsor:

Senator McLane, Senate District 42, stated this bill allows county governments to create a county road and bridge depreciation reserve fund. Sen. McLane stated that with the lose of federal revenue sharing with I 105 in effect it has become increasingly difficult for county governments to replace and acquire property, capital improvements, equipment and machinery. Sen. McLane stated it would be more desirable for county governments to budget road and bridge fund money that has not been expended or encumbered at the end of a fiscal year in road and bridge depreciation reserve funds. Sen. McLane stated it would give the county governments more flexibility for major road and bridge expenditures. Sen. McLane stated this procedure is being used for county libraries and it works well.

Testifying Proponents and Who They Represent:

John Beaudry, Co. Admin. and Planning Dir. for Stillwater Co.

Proponent Testimony:

DAILY ROLL CALL

HIGHWAYS AND TRANSPORTATION COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date March 9

NAME	PRESENT	ABSENT	EXCUSED
Chairman Stang, Barry "Spook"	✓		
Vice Chairman Linda Nelson	✓		
Rep. Bachini, Bob	✓		
Rep. Davis, Ervin	✓		
Rep. Harrington, Dan			✓
Rep. O'Connell, Helen	✓		
Rep. Steppler, Don	✓		
Rep. Westlake, Vernon	✓		
Rep. Aafedt, Ole	✓		
Rep. Campbell, Bud	✓		
Rep. Clark, Robert	✓		
Rep. Owens, Lum	✓		
Rep. Patterson, John	✓		
Rep. Roth, Rande	✓		
Rep. Zook, Tom	✓		

STANDING COMMITTEE REPORT

March 10, 1989

Mr. Speaker: We, the committee on Highways and Transportation report that SENATE BILL 242 (third reading copy -- blue) be concurred in .

Signed: _____
Barry Stang, Chairman

[REP. ROTH WILL CARRY THIS BILL ON THE HOUSE FLOOR]

EXHIBIT 8
DATE March 9
SB 242

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

OFFICE OF
THE ADMINISTRATOR

December 16, 1988

IN REPLY REFER TO:
HRW-10

The Honorable Stan Stephens
Governor-elect of Montana
State Capitol
Helena, Montana 59620

Dear Governor-elect Stephens:

I am writing to you as the head of the agency that has been designated as the Federal Government's lead agency for implementing and administering the requirements of the amended Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. §§ 4601-4655 (Uniform Act).

On October 20, 1987, my predecessor, R. A. Barnhart wrote to you to enlist your support for the passage in your State of a comprehensive statute to enable all State, local, and private entities receiving Federal funds to comply with the Uniform Act, as amended. Specific requirements of the Uniform Act found in §§ 210 and 305 relate to assurances which must be provided by displacing or acquiring agencies indicating their ability to comply with certain provisions of the Uniform Act. These assurances must be in place as of April 2, ~~1989~~ 1989. If they are not, the Federal agency providing the financial assistance for any ongoing project must withhold funding for any acquisitions or displacement occurring on or after April 2, 1989, and further, shall not approve any new activity, project, or program which will result in acquisition or displacement.

While we believe that many States may have specific legislation already in place or general assent language that could provide adequate protection come April 2, in many States the situation is unclear and open to question. In any event, the adequacy of State legislative authority can only be determined by appropriate State officials. Therefore, I respectfully request that you review the adequacy of State legislation to assure that State legislation is, or will be, in place no later than April 2, 1989, to permit unimpeded activities of State or local agencies receiving Federal financial assistance which may be used to acquire real property or to displace residents or businesses. The State legislation may be program-specific, comprehensive, or general in nature. The important point is that all affected State agencies must be able to provide the necessary assurances of compliance so that Federal financial assistance may continue without any interruptions due to failure to comply with the Uniform Act.

I appreciate your assistance in this matter.

Sincerely yours,

Robert E. Farris
Federal Highway Administrator

Dept. of Highways

Relocation Assistance EXHIBIT 9

DATE March 9, 1989

SB 242

Background:

In 1969, the Legislature enacted a bill for relocation of persons displaced by the highway projects (Part 3, Chapter 4, Title 60, MCA) and, in 1971, one for fair treatment of condemnees for persons displaced by federally assisted programs and for property acquisition. (Chapter 31, Title 70, MCA). These bills were enacted in response to federal legislation which created a federal relocation program to assist persons displaced by federally funded projects and which regulated the acquisition of real property.

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What the Proposed Bill Does:

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act to enable agencies to adopt rules necessary to follow federal requirements. It provides an immediate effective date because the federal law requires state compliance by April 2, 1989.

The bill also adds a definition of the term "appraisal" and amends the property acquisition provision by adding the right of a condemnee to donate property or proceeds to an agency and by allowing the Waiver of the appraisal requirement where property has a low fair market value.

Department Position:

Most of the federally funded highway projects of the Department of Highways involve the acquisition of real property or the displacement of persons from their homes, farms, or businesses. The federal act provides a more uniform treatment of displaced persons. This bill will enable the Department to comply with the federal requirements in order to assure continued funding of federal-aid highway projects as well as federal payment of relocation expenses to displaced persons. The Department supports this bill.

BG:ml

VISITORS' REGISTER

Highways COMMITTEE

BILL NO. SB 94, 242, 256, 355 DATE March 9, 1989

SPONSOR 389, 402 & 449 HB 709

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Duane Tooley	Driver Services	SB 355	
GARY WALRACK	MT SIGN WORKS	✓	
Ron Proud	TRAVELMARKETING	✓	
CHARLEY CHAMBERS	MONT RAIL LINK	402	
VERLE OSTRANDER	BN RR	402	
Pete Golda	Dept of Highways	SB 242 + 94	
ELMER FRAME	MONT CAMPGROUND OWNER	SB 94	
Rob Movanic	Missoula Chamber	SB 94	
Andy Neal	Montana Farm Bureau	SB 389	
Jon Smith	Great Falls KOA Kamp	SB 94	
John Beaudry	Stillwater County	SB 256	
Ride Young	Stillwater County	SB 256	
Bonnie Lipsey	Montana Jon Lepers	SB 94	
Marilyn B Ferguson	Big Horn Cty Sch	HB 709	
[illegible]	Big Horn County	HB 709	
Dan Engels	Mt Chamber of Commerce	SB 94	
Don Espeland	Nerco	HB 709	
Linda Hall Anderson	MACo	HB 256	
Tom Hannon	Myles Sign	~~SB~~	SB 94

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.